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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,402	11/28/2001	Samir Narendra Mehta	320037.402	2381
20280	7590	05/16/2008		
MOTOROLA INC 600 NORTH US HIGHWAY 45 W4 - 39Q LIBERTYVILLE, IL 60048-5343			EXAMINER DOAN, DUYEN MY	
			ART UNIT 2152	PAPER NUMBER
			NOTIFICATION DATE 05/16/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DOCKETING.LIBERTYVILLE@MOTOROLA.COM  
ADB035@Motorola.com

<b>Office Action Summary</b>	<b>Application No.</b> 09/997,402	<b>Applicant(s)</b> MEHTA ET AL.	
	<b>Examiner</b> DUYEN M. DOAN	<b>Art Unit</b> 2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-33, 35, 36, 39-51, 55, 56, 58 and 60- 73 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33, 35, 36, 39-51, 55, 56, 58 and 60- 73 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This office action is in response to the submission filed on 2/7/2008. Claims 1-33, 35, 36, 39-51, 55, 56, 58 and 60- 73 are presented for examination.

The Amendment is merely to overcome the 112 2nd rejections. The scopes of the claims have not changed.

The text of those sections of Title 35, U.S. Code not included in this office action can be found in a prior Office Action.

Claims 1-33,35-36,39-51,55-56,58,60-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tso et al (Us pat 6,088,803) (hereinafter Tso) in view of Subramaniam et al (us pat 6,640,302) (hereinafter Sub), and further in view of Jamtgaard et al (us pat 6,430,324) (hereinafter Jam).

Tso, Subramaniam and Jamtgaard are cited for rejection, in the last Office Action; the citations, which are applicable, are hereby incorporated by reference.

### ***Response to Arguments***

Applicant's arguments, see remark page11, filed 2/7/2008 with respect to 112 2<sup>nd</sup> rejections have been fully considered and are persuasive. The 112 2<sup>nd</sup> rejections have been withdrawn.

Applicant's arguments, see remark pages 11-13, filed 2/7/2008 with respect to 101 rejections have been fully considered but are not persuasive. Claims 30-33,35-36,39-44,61-73 cites "a system comprises; a provisioning manager...a deployment manager...an inspector..." in light of the specification as a whole (specification figure 5-7, and the corresponding text) a person with ordinary skill in the art would think that the claimed components in independent claim 30, 61 are software components. A system software per se is non-statutory. As states in 2106.01 computer program claimed as computer listing per se, the description of the programs are not physical things. They are neither computer component nor statutory processes, such claimed computer programs do not define any structural and functional interrelationship between the program and other claimed elements of a computer, see Lowry 32 F.3d at 1583-84,32 USPQ2d at 1035.

Applicant's arguments, see remark pages 13-18, filed 2/7/2008 with respect to 103(a) rejections have been fully considered but are not persuasive.

In response to applicant's argument that the prior art does not teach, "a)whether the provisioned content is stored locally or with a trusted third party host b) where the pre-provisioned content is stored with the trusted third party host, retrieving the pre-provisioned content form the trusted third party host and delivering it without additional provisioning."

As of point a, Examiner respectfully disagrees, Tso teaches "whether the provisioned content is stored locally or with a trusted third party host", the claim

language is presented in an alternative form, the claim can be read as follows: "whether the provisioned content is stored locally". Tso teaches the transcoded data is stored in a cache (locally) for later retrieval and determining whether the data is in the cache or not (see Tso col.6, lines 49-54, col.8, lines 1-6).

As of point b, Examiner also disagrees, the limitation, " the pre-provisioned content is stored with the trusted third party host, retrieving the pre-provisioned content form the trusted third party host and delivering it without additional provisioning." are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claim did not mention anything about "delivering it without additional provisioning". Subramaniam teaches concept of a border server function as a node a path which forward the secure data from a target server to the client (see Subramaniam col.10, lines 50-55). Taking the secure content (provisioned content) from a target server (trusted third party host) and forward to the client is the same with "the pre-provisioned content is stored with the trusted third party host, retrieving the pre-provisioned content form the trusted third party host and delivering it".

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DUYEN M. DOAN whose telephone number is (571)272-4226. The examiner can normally be reached on 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2152

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Examiner  
Duyen Doan  
Art unit 2152  
5/9/2008

/Bunjob Jaroenchonwanit/  
Supervisory Patent Examiner, Art Unit 2152